

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

HECTOR OMAR SANTOYO,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-05-1253-L
)	
JUSTIN JONES, Director,)	
)	
Respondent.)	

ORDER

Petitioner, a state prisoner appearing *pro se*, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. This matter is before the court for review of the Second Supplemental Report and Recommendation entered by United States Magistrate Judge Gary M. Purcell on July 26, 2006. The Magistrate Judge recommends that the petition be denied.

The record reflects that petitioner filed an Objection to Magistrate's Second Supplemental Report and Recommendation, which the court has carefully considered. The court has also given full consideration to Petitioner's Reply to State's Response, which was filed on July 26, 2006.¹ Petitioner also filed a

¹ The court notes that the Magistrate Judge granted petitioner's Motion for Leave to File Oversized Brief in its Second Supplemental Report and Recommendation. This chronology might reasonably raise a concern that the Magistrate did not consider the reply brief since it was filed of record after the Second Supplemental Report and Recommendation was filed. However, it appears to the court that petitioner submitted the original of his reply brief along with his motion for leave to file it. Therefore, the reply brief, which indicates that it was dated by petitioner on July 11, 2006, was physically available to be reviewed by the Magistrate Judge even though it was not actually filed until later. In any event, the points raised in petitioner's oversized reply brief have been thoroughly reviewed by the court.

Motion for Leave to Reply and Incorporated Reply to Opposition to Supplementation of Record on the same day the Supplemental Report and Recommendation.

The court has fully analyzed the petitioner's arguments and has liberally construed his filings as objections to the Second Supplemental Report and Recommendation. The court determines that petitioner's arguments are insufficient to justify overturning the conclusions of the Magistrate Judge in this matter. The issues raised by petitioner were previously considered and rejected by the Magistrate Judge and the conclusions of the Magistrate Judge are well supported by the facts and controlling legal authority. Although the petitioner lodges numerous broad objections to the Magistrate's "conclusions of law," the court determines that his objections do not call into question the authorities relied upon and discussed by the Magistrate in the Second Supplemental Report and Recommendation.

Finally, the court grants petitioner's Motion for Leave to Reply [Doc. No. 40], and has reviewed the incorporated reply regarding the issue of supplementation of the record. However, the court agrees with the Magistrate Judge that supplementation of the record would not be appropriate.

Accordingly, having conducted a *de novo* review of the matter, the court finds that the Second Supplemental Report and Recommendation should be

adopted in its entirety. Therefore, the 28 U.S.C. § 2254 Petition for a Writ of Habeas Corpus is **DENIED. This action is DISMISSED.**

It is so ordered this 11th day of September, 2006.



TIM LEONARD
United States District Judge